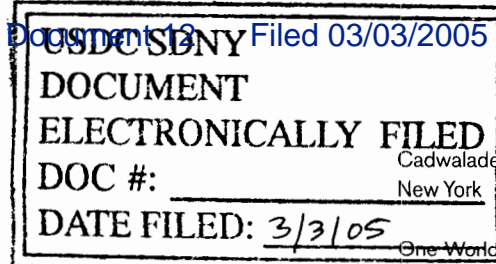


C A D W A L A D E R



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March 1, 2005

BY HAND

Honorable Richard M. Berman
 United States District Judge
 Southern District of New York
 40 Centre Street
 Courtroom 706
 New York, New York 10007

Re: Vaicaitiene v. Partners In Care, Inc.
Nurse Service of New York, Inc.

SO ORDERED
 Date: 04 Civ. 9125 (RM)

3/3/05

Richard M. Berman
 Richard M. Berman, U.S.D.J.

Dear Judge Berman:

We are the counsel for defendants in the above-referenced proceeding. I am writing to bring to the Court's attention a scheduling issue that has arisen, and to request the Court's assistance in resolving same.

Well in advance of the February 28 due date for defendants' response to the complaint, which was set at the initial conference before Your Honor on January 14, 2005, defendants submitted a letter dated February 2, 2005 describing their proposed motion to dismiss and requesting a pre-motion conference in accordance with Section 2(A) of Your Honor's Individual Practices. By Order dated February 3, 2005, the Court set a date of February 10 for plaintiff's response, with "Counsel thereafter to set conference with Court Deputy." After counsel for plaintiff submitted his letter, we called the Court together and a pre-motion conference date of February 18 was established. The pre-motion conference as scheduled fell 10 days before the time defendants were to respond to the complaint with their proposed motion.

A few days later, I received a call from plaintiff's counsel, who told me that he had received a call from chambers advising that the date for the pre-motion conference was being re-scheduled, and that the new date was March 3. Since this date fell after the February 28 deadline for defendants' response to the complaint, counsel agreed to a short extension so that the pre-motion conference could be attended prior to the due date for the response. I submitted a Stipulation to adjourn the date and a letter to the Court to explain the circumstances on

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// Friday, February 18. At that point, the pre-motion conference was scheduled for March 3, and the date agreed to by counsel for response was March 7. On Friday, February 25, the extension to March 7 was granted by the Court, and marked final.

However, in the meantime, the pre-motion conference was apparently again being re-scheduled, again to a date after the due date for the proposed motion. Notice was faxed to counsel for plaintiff by the Court on Friday, February 25, and faxed to the undersigned yesterday. According to that notice, the pre-motion conference is now set for March 14, a week after the date by which defendants are to make their motion. //

I am therefore again left in the position of seeing the required pre-motion conference re-scheduled for a date after the date by which I am to make the motion to dismiss described in my letter of February 2. This time, however, there is also in place an extension marked "final". I called chambers for guidance yesterday, and was advised to write a letter to Your Honor.

In light of the Court's requirement of a pre-motion conference, I respectfully request that the Court's re-scheduling of the conference trigger a corresponding shift in the date by which defendants' response to the complaint is due. If the pre-motion date remains set for Monday, March 14, then a new date for the response could follow by the same number of days agreed to previously by counsel and be set for Friday, March 18. As previously, defendants would extend the tolling agreement previously agreed to by counsel to that date.

We thank the Court for its attention to this request.

Respectfully,



Kathy H. Chin

KHC:sbg

cc: Karl J. Stoecker, Esq.
Attorney for Plaintiff
(via facsimile)